

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/025,282
Confirmation No.: 5918
First-Named Inventor: Mark W. Bleyer
Filing Date: December 19, 2001
Group Art Unit: 1633
Examiner: Maria Gomez Leavitt
Attorney Docket No.: 003433-000333
Title: RADIOPAQUE IMPLANTABLE COLLAGENOUS BIOMATERIAL DEVICE

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The applicant wishes to thank Examiner Leavitt for the Notice of Allowance. Applicant submits and agrees that claims 54-60, 62, 66 and 67 as they now stand are allowable over the prior art. However, applicant specifically reserves the right to pursue different and/or broader claims in other applications.

In the Notice of Allowability, the Examiner included statements regarding reasons for allowance of the claims. Applicant agrees that the prior art of record fails to teach or render obvious any of claims 54-60, 62, 66 or 67 as they currently stand. However, applicant submits that any statement of reasons for allowance necessarily contains characterizations of the claims or of the prior art which cannot adequately indicate the bases for allowance of the claims. Accordingly, applicant submits that the stated reasons for allowance do not adequately describe the applicant's invention as claimed, or the reasons that the claims are allowable over the prior art.

Each claim is allowable because each claim recites a combination of elements not disclosed or suggested by any of the references, taken alone or in combination. The invention resides in the combination of elements as variously recited in the claims, and not in the presence

of any one or a few particular elements or limitations. Further, it is to be understood that each claim stands on its own merits.

Applicant therefore does not acquiesce to any inference or presumption which may be drawn from the Examiner's statements regarding the reasons for allowance. As stated in the MPEP at 1302.14, “[t]he examiner's statement of reasons for allowance is the personal opinion of the examiner as to why the claims are allowable [and the] examiner's statement should not create an estoppel.”

Respectfully submitted,



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